IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 18807 of 2007

DATED: 28.9.2007

Between:

S.V.Ra Lakshmi petitioner

And

The Divisional Security Commissioner,
Railway Protection Force, S.C Railway
Guntakal Division, Guntakal
Anantapur district and ors Respondents

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ORAL ORDER:

This writ petition is filed questioning the action of the first respondent in issuing charge sheet dated 22.8.2007 as illegal and arbitrary.

The petitioner is employed in Railway Protection Force as Constable. The petitioner alleges that she is suffering from severe back pain and doctors advised her to attend to only light duties. Earlier she filed W.P. No.24334 of 2006 seeking a direction to the respondents to provide her light duties and the said writ petition was disposed of by order dated 22.11.06 observing that if the petitioner is unable to continue in the job, she can avail the alternative remedies available to her under law. The petitioner alleges that without considering her sickness and the fact that she is unfit to perform the duties of Constable, the respondents issued proceedings dated 18.4.2007 directing her to report to duty immediately within three days. The request of petitioner to provide her light duties was negatived by proceedings dated 5.6.06 on the ground that there is no concept of light duties in Railway Protection Force, since it is an armed force. The petitioner states that though she has not fully recovered from the sickness, in obedience to the orders dated 5.6.06 she reported to duty and she was referred to medical examination to Chief Medical Superintendent, S.C.Railway hospital, Guntakal, who in turn referred

her to Sri Venkateshwara Institute of Medical Sciences (for short SVIMS), wherein the medical board examined her and issued proceedings dt 14.5.2007 to the effect that she is unable to walk due to parathesia of both lower limbs. She underwent treatment at SVIMS as inpatient and discharged on 21.5.07 and she was advised to attend to light duties only. Thereafter the second respondent issued certificate dated 12.9.2006 declaring the petitioner fit and based on the said report the first respondent issued proceedings dated 14.7.2007 directing her to report for duties. The petitioner submitted a representation dated 30.7.2007 stating that she is not in a position to attend to duties. Thereafter, petitioner was issued with charge sheet dated 22.8.2007 alleging three charges.

The first charge is with regard to unauthorized absence from 2.9.2006 to 23.4.2007 for 234 days, the second charge is for unauthorized absence from 7.7.2007 till the date of issuance of charge sheet and the third charge is with regard to leaving the headquarters without obtaining prior permission from her superiors and that she was found indiscipline, irresponsible and negligent in her duties.

Learned counsel for petitioner submitted that the respondents without considering the sickness of the petitioner, directed her to report to duties and issued charge sheet alleging unauthorized absence and negligent towards duties, which is illegal.

On the other hand, learned standing counsel for respondents submitted that merely a charge sheet is issued to the petitioner and the petitioner can very well raise all her contentions including the contentions raised before this Court and without submitting her explanation, she rushed to this Court and the writ petition is not maintainable.

Heard the learned counsel for petitioner and learned standing

counsel for respondents.

In the earlier round of litigation the petitioner filed W.P. No. 24334 of 06 seeking a direction to the respondents to allot light duties and the said writ petition was disposed of by order dated 22.11.2006, the operative portion of the same reads as under;

> "….The respondent-RPF, admittedly, is an armed force. In the armed forces, there is no concept of light duty or hard duty, and that every staff has to perform duties with Arms & Ammunition. Since there is no concept of light duties or hard duties in the respondents-armed force, no exception can be taken to order of the 1st respondent rejecting the request of the petitioner for providing light duties. At any rate, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, does give a direction to the respondents to provide light duties or hard duties to its employees, and more so when any of the allotment of duties, depends upon the necessity and requirement of the authorities and the ability of the employees to perform such works. However, if the petitioner is unable to continue in the job, she can avail the alternative remedies available to her under law."

Now in this writ petition, the petitioner is questioning issuance of charge sheet and ordering enquiry against her under Rule 153 of Railway Protection Force Rules, 1987 on the ground that during the period of sickness she was undergoing treatment and she is unfit to perform the duties of constable and she cannot be compelled to perform the hard duties of constable against the advise of the Doctors. The said factual aspects, which are subject matter of enquiry cannot be adjudicated before this Court. In the present case, while issuing the charge sheet enquiry officer is nominated, and the documents relied upon and witnesses to be examined on behalf of the

management, to substantiate the charges is also mentioned, hence the proper course for the petitioner is to attend the enquiry and raise all contentions in support of her claim. Hence, this Court is of considered opinion that there are no merits in the writ petition and the same is liable to be dismissed.

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N.V.RAMANA,J

DATE: 28.9.2007
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